



Landlord Letter

Free Forms & Notices — www.utahevictionlaw.com

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Serving Eviction Notices

The eviction notice is the foundation of an eviction case. If the wrong eviction notice is served, or if the notice is not served properly, the entire eviction is in jeopardy. This means that not only could the eviction be dismissed, but the tenant may be awarded a judgment against the landlord. It is critical to ensure that the landlord serves the correct notice in the correct way.

The most common eviction notices are (1) three day pay or quit (for failing to pay rent), (2) no cause notice to vacate, (3) lease violations, and (4) nuisance. Other eviction notices include assigning or subleasing, criminal acts, tenant at will, unlawful business, and waste (damage) to property. Visit our website for these notices, including de-

scriptions of when to use each one.

When a landlord serves an eviction notice, Utah law requires the notice to be served via one of the following methods (1) personal service, (2) substitute service to a person of suitable age and discretion at the home or their place of business, (3) posted service in a conspicuous place on the property if a person of suitable age and discretion cannot be found, or (4) certified mail.



We recommend the “Knock, Post & Picture” technique. This involves knocking on the door to attempt personal service. If the tenant doesn’t answer the door, post a copy of the notice on the door and snap a pic-

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Evictions in Weeks, Not Months!

Courtroom Chronicles

Last year we took an uncooperative tenant all the way to trial. For several reasons, we recommended to our client that he post an “Owner’s Possession Bond”, which is a security deposit paid by the landlord to the court to help speed up the eviction process.

We were able to get the landlord’s bond set at only \$500. But the tenant’s bond is based on a different standard; we were able to get the tenant’s bond set at \$8,000. This meant that if the tenant wanted to stay in the property until the trial, they were required to pay their bond to the court.



To our surprise, the tenant actually paid the \$8,000 bond, which forced the case to a trial. To the tenant’s surprise, at trial the judge awarded us our full judgment requested in the amount of \$31,000. Not a single dime was reduced from the amount we requested.

Collections can be the most difficult portion of the legal process. However, with the bond in place, the landlord immediately collected the bond as a credit toward our judgment. Posting the bond helped the landlord to immediately collect \$8,000 of the judgment.

(Continued from page 1)

ture of the posting with your phone. While certified mail is allowed under Utah law, we usually discourage certified mail service simply because it is slower than other methods. It will take a few days to deliver the notice, and if tenant never signs for the letter, they can argue that letter was never served and the timelines (usually three days) never started.

Also, when serving eviction notices the landlord should serve as many eviction notices as are applicable to the situation. We occasionally have questions from landlords about whether multiple eviction notices can be served at the same time, the answer is YES – please do serve multiple eviction notices. As the attorney, if we have to file an eviction with the court where the landlord has filed multiple eviction notices, we don't have to prove ALL of the eviction notices to be successful in our eviction. We only need to prove ONE of the notices is accurate. Serving multiple eviction notices provides us multiple "bites at the apple" to be awarded an eviction.

For example, a few years ago we were contacted by a landlord with a difficult eviction. There was not a written lease and both the landlord and tenant had differing views of what the verbal lease required of

each side. Based on the problems the tenant had caused, we recommended that the landlord serve FIVE separate eviction notices. We filed the case with the court and the tenant disputed our eviction, which required an eviction hearing.

At any eviction hearing we always look for an opportunity to visit with the tenant prior to going before the judge. In that meeting, we explained to the tenant exactly what we intended to present to the judge, but we explained the case one eviction at a time. By the time we were finished, we had all five eviction notices fanned out on the table. For us to win, we only had to prove one of them. For the tenant to win, they had to disprove ALL five notices. Describing the case in this manner helped push the case to a settlement in favor of both parties – the landlord was granted an eviction order, but the tenant was given a few extra days to vacate the property. Prior to the hearing, the tenant was adamant they would not be evicted. The five eviction notices at the hearing helped to convince the tenant that it was time to move.

If you have any questions about which eviction notice to serve, please take advantage of our free eviction consultation.



Attorney Jeremy Shorts



DOs & DON'Ts of... Background Checks



- Conduct a thorough background check (including live eviction cases that may have been recently filed).
- Get a full rental application from ALL tenants.
- Verify employment and contact references.
- Make sure the application is filled out completely.



- Rely on instincts alone. A tenant may seem great, but background checks are still a necessity.
- Sign a lease without a background check and verifying the information provided on the application.
- Skip on the application details. Make sure to get at least their full name, birthday and social security number.



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Dear Attorney,

Q:

Is it better to work out a deal with my tenants or should I just start the eviction process?

A:

Unfortunately, the best answer is: it depends. Most of the time, it's best to try and work with your tenant to see if you can avoid the time, cost and headache of going through the eviction process. Being able to work with your tenant will greatly depend on the history you've had with them and how significant the problems are. If your tenants are refusing or failing to correct the problem (whether it's due to late rent, not cleaning, causing a nuisance, etc.), you may want to begin the process and get the ball

rolling with the eviction.

This doesn't mean that you can't work out an agreement with them once the eviction has been filed, but what it does do is allow you to show the tenant you are serious and any agreement made after that could be backed up by a court order. With the court's order on your side, you don't have to worry about starting over from scratch if the tenant fails to follow through again.

If at first you don't succeed with a negotiation, you shouldn't hesitate to proceed with an eviction.

Know Your Notice

•Unlawful Business•

Purpose: To evict your tenant for conducting an unlawful business on the property.



Make sure your evidence is strong (witnesses, police reports, activity logs, etc.).

Keep good records of the unlawful business being conducting (i.e. pictures, emails, texts, etc.)

This notice does NOT give the tenant an opportunity to cure. The tenant must vacate within 3 days or face an eviction.

Like other eviction notices, it must be served in person, posted or sent via certified mail. It cannot be given verbally, texted or emailed.

Quick Tip:

Have some prospects for your rental, but unsure if you should rent to them? Our office can run a background search to check their prior evictions, judgment and criminal history. Use our rental application at www.utahevictionlaw.com. Send the completed application to info@utahevictionlaw.com and we will return the results in 24 hours.

It's that easy.

Goals

1. Receive Application
2. Background Check
3. Rent Property



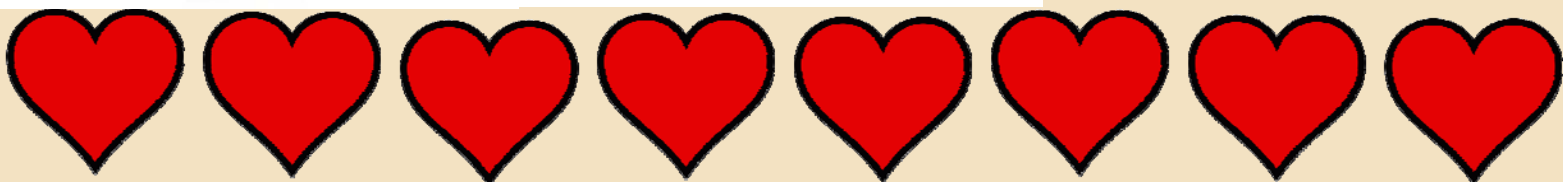
Don't forget to check our website for ***FREE*** forms such as:

- Rental Application
- Property Checklist
- Lease Agreement
- Closing Statement
- Notice of Inspection
- Eviction Notices

www.utahevicitionlaw.com

Life is what happens to you while you are busy making other plans.

~John Lennon



Calendar of Events



- February 2 — Groundhog Day
- February 14 — Valentine's Day
- February 16 — President's Day
- February 18 — Ash Wednesday
- February 19—Chinese New Year
- February 27 — UAA's Ogden Membership Meeting
- February 28 — UAA's Orem Membership Meeting
- February 29 — UAA's SLC Membership Meeting

Parting Thoughts

- We're working to build our readership, tell your friends to subscribe to this FREE newsletter. Send us an email at info@utahevicitionlaw.com.
- Have an eviction question? Email it to us for a future newsletter!
- Help us build our online presence! You can "Like" our Facebook page (www.facebook.com/utahevicitionlaw).
- You can also give us a Five Star Google Review (search "Utah Eviction Law Reviews" and click on our link).

